



# **Rio Arriba County Detention Center (RACDC) POLICY 0106 OVERTIME AND COMPENSATORY TIME**

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## **Purpose**

The overtime and compensatory time policy shall be used to determine compensation for employees who work in excess of the normal work hours as designated by these policies. Overtime shall be kept to a minimum and shall be used to relieve specific peak overloads, emergencies or for attendance at job related activities scheduled outside of normal working hours. These policies are specifically based on laws outlined in the United States Fair Labor Standards Act (FLSA), as amended. Issues which are not specifically addressed in these policies will be resolved by reference to the appropriate section of the FLSA and Department of Labor regulations.

Two groups of employees are identified for the purposes of this policy and the FLSA. These groups of employees are referred to as "exempt", those not affected by the provisions of the FLSA, and "non-exempt" employees who are specifically affected by the FLSA. Job class specifications define whether positions are exempt or non-exempt. Reference to the specific position and its category is important prior to referring to the applicable policies contained herein.

## **Definition**

Overtime is defined as any time worked beyond the total number of hours normally worked by the employee in a seven-day period. There are exceptions to the seven-day period which affect law enforcement, detention staff and Fire and Rescue Department personnel. The positions in these groups are covered by a special provision of the FLSA specifically for public safety employees and set forth in section 7(K) of the FLSA. Section 7(K) provides a partial overtime pay exemption for public agency employees employed in law enforcement (including personnel in correctional or penal institutions) and fire protection activities. Under this provision an employer can establish a work period of 28 consecutive days or a lesser number of consecutive days. For the purposes of these regulations, the maximum number of hours in the work period for police officers is 160 hours. Overtime hours which exceed the maximum number as indicated shall be governed by sections below.

## **Exempt Employees**

Employees whose positions are identified as exempt are not affected by the provisions of the FLSA. Exempt employees are specifically identified in the FLSA as bona fide executives, administrators and professionals. Each category of employee must meet certain standards outlined in the FLSA for exempt categories in order to qualify.

## **Establishment of Workweek for Non-Exempt Employees**



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Rio Arriba County Detention Center as a general rule has defined the relevant work week to fourteen days since this class of employee is specifically provided for under the FLSA. Detention Supervisors/Officers/Recruits who normally work:

- A. 80 hour work:
  - a. Detention Supervisors/Officers/Recruits scheduled to work 8 hour shifts
- B. 84 hour work week:
  - a. Detention Supervisors/Officers/Recruits scheduled to work 12 hour shifts

The employees listed above will be compensated at a rate of one and one-half times the employees normal rate for all compensable hours worked in excess of hours identified above. Detention Administrator or designee must approve overtime compensation in advance in order for any compensation to be granted. Emergency situations do not need prior approval.

## **Calculation of Overtime (Compensatory Leave)**

Overtime, for those eligible employees as set forth in these regulations, is calculated by multiplying the employee's regular hourly rate by one and one-half times the number of overtime hours worked. The regular hourly rate is defined as the rate per hour paid for normal non-overtime work excluding bonuses, gifts, awards, etc. Compensatory leave is calculated by multiplying the number of overtime hours one and one-half times.

## **Compensable Hours**

Non-exempt employees must be compensated for all hours worked as well as for all excused absences such as holidays, annual leave, sick leave, accrued compensatory time, and administrative leave. At a minimum, "hours worked" comprise all time during which an employee is necessarily required to be on County premises, on duty or at a prescribed work place. Normally travel time to and from work and time spent conducting volunteer activities are not to be considered "hours worked".

## **Permitted Work**

Appointing authorities and their supervisors shall not knowingly permit an employee to work outside of the assigned hours, thereby accepting the benefits of the extra work, and then refuse to compensate the employee for the hours on the basis that the employee was not authorized to work those hours. Employees who voluntarily continue to work before or after their scheduled hours are entitled to payment.



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Whether it is to finish an assigned task, correct errors, prepare reports or records, etc., such work is considered as compensable hours. Appointing authorities and supervisors have the responsibility of ensuring that such work does not occur to avoid exposing the County to liability for overtime pay. Appointing authorities and supervisors should advise all non-exempt employees that they may not start work before or complete work after the appointed time, except in emergencies, without specific authorization.

## **Travel Time**

Time during which an employee travels to and from work does not count as hours worked except travel time for calls back to work. Travel from work site to outlying job sites is compensable as hours worked.

## **Non-Exempt Employees** (not specifically affected by FLSA Section 7(k))

Non-exempt positions are those positions specifically affected by the FLSA and mandated that the Federal minimum hourly wage be paid and all hours worked beyond 40 hours in a seven day workweek be compensated at one and one-half times the employees regular hourly rate or receive compensatory leave at a similar rate.

## **Establishment of Workweek for Non-Exempt Employees** (not specifically affected by FLSA Section 7(k))

As a general rule, the relevant work period is the seven-day workweek. Overtime must be compensated at a rate of one and one-half times the employees normal hourly rate for all compensable hours worked in excess of 40 hours in a particular workweek. All employees who normally work a 40 hour work week shall receive overtime cash payment or compensatory leave for all compensable hours in excess of 40 hours in the workweek at one and one-half times the number of overtime hours.

- A. Appointing authorities or their designees must approve overtime compensation in advance in order for any compensation to be granted. Emergency situations do not require prior approval

## **Waiting Time**

Whether or not an employee is working or waiting can be answered by the question, "Was the employee engaged to wait or waiting to be engaged?" A. If an employee has been assigned to wait for something to occur, the employee is "engaged to wait" and the waiting time will be counted as compensable time worked. If the waiting time is occupied by a work related activity, or if waiting for work after reporting at a required time, the time will count as compensable time.



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If an employee arrives early, does not perform any work before the scheduled appointed time, and merely waits to be engaged or start work, waiting time will not be compensable hours.

## **Stand-By Time**

The time during which an employee is asked to "stand-by" is considered to be compensable time. This time is based on the extent of control the supervisor has over the employee's activities during the stand-by period. If an employee is restricted as to what he or she can do or where he or she can go during the standby time, the time will be considered compensable. Stand-by time effectively prevents employees from using the time for their own purposes.